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12 Insurance Company

13 UNITED STATES DISTRICT COURT  
14 DISTRICT OF NEVADA

15 PROGRESSIVE CASUALTY  
INSURANCE COMPANY

16 Plaintiff,

17 v.

18 FEDERAL DEPOSIT INSURANCE  
19 CORPORATION, AS RECEIVER OF  
20 SILVER STATE BANK; COREY L.  
JOHNSON; DOUGLAS E. FRENCH;  
21 GARY A. GARDNER; and TIMOTHY S.  
KIRBY

22 Defendants.  
23  
24  
25

Case No. 2:12-cv-00665-KJD-PAL

**JOINT STIPULATION AND ORDER  
TO EXTEND TIME FOR DISCOVERY  
AND RELATED DEADLINES**

**Fourth Request**

1 Now comes Plaintiff Progressive Casualty Insurance Company ("Progressive") and  
2 Defendants Federal Deposit Insurance Corporation, as Receiver of Silver State Bank ("FDIC-R"),  
3 Corey L. Johnson, Douglas E. French, and Gary A. Gardner (collectively the "Ds & Os"), by and  
4 through their undersigned counsel, and respectfully request that this Court enter an order extending  
5 the time for the parties to conduct discovery in this matter, along with related deadlines.<sup>1</sup> In support  
6 of this request, the parties state as follows:

7 **I. Background**

8 This is an insurance coverage action arising out of a claim that the FDIC-R has brought  
9 against the Ds & Os (the "FDIC-R Action").<sup>2</sup> On April 20, 2012, Progressive filed its complaint in  
10 the captioned action. Progressive seeks a declaration that a directors and officers insurance policy  
11 (the "Progressive Policy" or the "Policy") it issued to Silver State Bank ("SSB" or the "Bank")  
12 provides no coverage for the FDIC-R Action.<sup>3</sup>

13 On August 31, 2012, Progressive and the Ds & Os submitted a Supplemental Joint  
14 Submission Regarding Discovery Plan and Scheduling Order [Doc. 66]. That same day, the FDIC-  
15 R submitted a Supplemental Submission Regarding Discovery Plan and Scheduling [Doc. 65]. On  
16 September 18, 2012, the Court entered an Order [Doc. 71] addressing the parties' supplemental  
17 scheduling submissions (the "Scheduling Order"). On November 12, 2012, the parties filed a Joint  
18 Stipulation and Order to Extend Time for Discovery and Related Deadlines [Doc. 74], which the  
19 Court entered on November 19, 2012 [Doc. 75] (the "Amended Scheduling Order"). On May 15,  
20 2013, the parties filed a Second Joint Stipulation and Order to Extend Time for Discovery and  
21

22 <sup>1</sup> Mr. Kirby, who remains a named defendant in this action, is deceased.

23 <sup>2</sup> The FDIC-R Action is *Federal Deposit Insurance Corporation, as Receiver of Silver State*  
*Bank v. Johnson, et al.*, No. 2:12-cv-00209-KJD-PAL (D. Nev.).

24 <sup>3</sup> The Progressive Policy is Directors & Officers / Company Liability Insurance Policy for  
25 Financial Institutions No. 0007849-04, which Progressive issued to the Bank and other Named  
Insureds for the Policy Period from May 21, 2007 to May 21, 2010.

1 Related Deadlines [Doc. 92], which the Court entered on May 17, 2013 [Doc. 93]. On September  
2 13, 2013, the parties filed a Third Joint Stipulation and Order to Extend Time for Discovery and  
3 Related Deadlines [Doc. 103]. On November 5, 2013, the Court entered the current scheduling  
4 order [Doc. 113].

## 5 **II. Future Discovery and Requested Extension**

6 The parties respectfully refer the Court to their Third Joint Interim Status Report [Doc. 128]  
7 (the "Third Report"), which they filed on January 3, 2014, and the recitation therein of the case  
8 status, discovery to date, and anticipated future discovery. Subsequent to filing the Third Report,  
9 and pursuant to this Court's order in the action captioned *Progressive Casualty Insurance Company*  
10 *v. Delaney, et al.*, No. 2:11-cv-00678-LRH-PAL ("Sun West"), representatives of Progressive, the  
11 FDIC-R, and the FDIC as Receiver for other failed banks participated in a meeting on January 24,  
12 2014 to discuss Progressive's review and production of electronically stored information ("ESI") in  
13 connection with the pending declaratory judgment actions, including this matter. Shortly thereafter,  
14 on January 29, 2014, Progressive and the FDIC as Receiver for Sun West Bank filed in the Sun  
15 West action a Joint Status Report Regarding ESI. For the Court's convenience a copy of this report  
16 is included herewith as Exhibit A.

17 On February 7, 2014, representatives of Progressive, the FDIC-R, and the FDIC as Receiver  
18 for other failed banks participated in a telephone conference to further discuss issues raised during  
19 the January 24 meeting and a subsequent, January 28, 2014, letter authored by Dickstein Shapiro,  
20 counsel for the FDIC in many of the pending declaratory judgment actions, including Sun West.  
21 The parties anticipate further discussions regarding ESI in advance of the status conference  
22 scheduled in the Sun West action on February 25, 2014.

23 In light of the discovery that remains to be completed in this matter, including the  
24 production and review of ESI and the depositions referenced by the parties in their Third Report, the  
25

1 parties respectfully stipulate to the following extension of the current deadlines in this matter and  
2 respectfully request that the Court enter an order to this effect:

Item	Current Deadline	Extended Deadline
Fourth Interim Status Report	N/A	April 3, 2014
Discovery Deadline	March 3, 2014	June 2, 2014
Dispositive Motions	April 2, 2014	July 2, 2014
Joint Pre-Trial Order	May 2, 2014	August 1, 2014

10 **III. Conclusion**

11 For the reasons stated above, the parties respectfully request that this Court enter an order  
12 extending the deadlines as set forth herein.

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Respectfully submitted this 10th day of February, 2014.

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**IT IS SO ORDERED**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014

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**United States Magistrate Judge**